

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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JOSE ANTONIO RODRIGUEZ,
Petitioner,

v.
DAVID A. HARDY, *et al.*,
Respondents.

Case No. 3:23-cv-00660-MMD-CLB
SCHEDULING ORDER

In this habeas corpus action, the Court appointed counsel for the petitioner, Jose Antonio Rodriguez. (ECF No. 3.) The Federal Public Defender for the District of Nevada appeared on Petitioner's behalf on February 9, 2023. (ECF No. 5.) Respondents have also appeared. (ECF No. 4.)

It is therefore ordered that the following schedule will govern further proceedings in this action.

Petitioner will have 60 days from the date of this order to either pay the \$5 filing fee for this action or file an application to proceed *in forma pauperis*.

Petitioner will have 90 days from the date of this order to file an amended petition for writ of habeas corpus.

Respondents will have 90 days following the filing of the amended petition for writ of habeas corpus to file an answer or other response to the amended petition.


Petitioner will have 60 days following the filing of an answer to file a reply. Respondents will thereafter have 30 days following the filing of a reply to file a response to the reply.

If Respondents file a motion to dismiss, Petitioner will have 60 days following the filing of the motion to dismiss to file a response to that motion. Respondents will thereafter have 30 days to file a reply.

1 If Petitioner wishes to move for leave to conduct discovery, Petitioner may file such
2 motion concurrently with, but separate from, the response to Respondents' motion to
3 dismiss or the reply to Respondents' answer. Any motion for leave to conduct discovery
4 filed by Petitioner before that time may be considered premature, and may be denied,
5 without prejudice, on that basis. Respondents must file a response to any such motion
6 concurrently with, but separate from, their reply in support of their motion to dismiss or
7 their response to Petitioner's reply. Thereafter, Petitioner will have 20 days to file a reply
8 in support of the motion for leave to conduct discovery.

9 If Petitioner wishes to request an evidentiary hearing, Petitioner may file a motion
10 for an evidentiary hearing concurrently with, but separate from, the response to
11 Respondents' motion to dismiss or the reply to Respondents' answer. Any motion for an
12 evidentiary hearing filed by Petitioner before that time may be considered premature, and
13 may be denied, without prejudice, on that basis. The motion for an evidentiary hearing
14 must specifically address why an evidentiary hearing is necessary and must satisfy the
15 requirements of 28 U.S.C. § 2254(e). The motion must state whether an evidentiary
16 hearing was held in state court, and, if so, state where the transcript is located in the
17 record. Respondents must file a response to any such motion concurrently with, but
18 separate from, their reply in support of their motion to dismiss or their response to
19 Petitioner's reply. Thereafter, Petitioner will have 20 days to file a reply in support of the
20 motion for an evidentiary hearing.

21 DATED THIS 9th Day of February 2024.

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24 MIRANDA M. DU
25 CHIEF UNITED STATES DISTRICT JUDGE
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